

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Mark Robson, Director, Division of Marine Fisheries  
 Management, 2590 Executive Center Circle East, Suite 201,  
 Tallahassee, Florida 32301, (850)488-9542  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive  
 Director  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: December 6, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: February 29, 2008

NOTICE OF CORRECTION  
 Notice is hereby given that the following correction has been  
 made to the proposed rule in Vol. 34, No. 8, February 22, 2008  
 issue of the Florida Administrative Weekly.  
 The following information was inadvertently omitted from the  
 notice of proposed rulemaking for the above proposed rules.  
 NAME OF PERSON ORIGINATING PROPOSED RULE:  
 George Sapp, Assistant Secretary of Institutions  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy  
 Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: December 21, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: January 18, 2008

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF EDUCATION  
 State Board of Education**

RULE NO.:	RULE TITLE:
6A-1.039	Supplemental Educational Services in Title I Schools

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 4, January 25, 2008 issue of the Florida Administrative Weekly.

Subsection (10) was amended to read:

(10) Confidentiality. The identity of any student who is eligible for or receiving supplemental educational services shall not be disclosed to the public without prior written consent of the parents of the student, however, unless a student is a dependent student as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), when a student has attained 18 years of age, prior written consent of the student is required before disclosure under this subsection occurs. Providers shall abide by the procedures of the school district and the Department for the security, privacy and retention of student records in accordance with the requirements of Section 1002.22, Florida Statutes and 20 U.S.C. § 1232g.

**BOARD OF TRUSTEES OF THE INTERNAL  
 IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF CORRECTIONS**

RULE NOS.:	RULE TITLES:
33-601.800	Close Management
33-601.820	Maximum Management

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-1.002	Delegation of Authority

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 8, February 22, 2008 issue of the Florida Administrative Weekly. The date the notice of proposed rule development published in the Florida Administrative Weekly is corrected to February 15, 2008.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Division of Hotels and Restaurants**

RULE NO.:	RULE TITLE:
61C-8.004	Program Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

61C-8.004 Program Requirements.

(1) Grant Application Requirements.

(a) Grant applications shall be submitted on DBPR Form HR 5025-200, GRANT APPLICATION ~~TO SUPPORT HOSPITALITY TRAINING PROGRAMS~~, incorporated herein by reference and effective ~~2007 October 4~~ ~~1-18-98~~, to the Program Administrator ~~Director of Education~~, Hospitality Education Program (HEP), Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014. ~~Applications are available upon written request to the Director of Education as cited above.~~

~~(f)(e)~~ The application must be accompanied by DBPR Form HR 5025-201, PROPOSAL NARRATIVE FORMAT, incorporated herein by reference and effective 2007 October 4

~~1-18-98. Copies of this form may be obtained from the Hospitality Education Program at the address provided in paragraph 61C-8.004(1)(a), F.A.C.~~

(2) Review and Processing of Grant Applications.

~~(b) DBPR Form HR 5025-206, EVALUATION FORM, incorporated herein by reference and effective 2007 October 4, shall be used by all reviewers to evaluate all school-to-career transition programs grant applications submitted. DBPR Form HR 5025-204, EVALUATION FORM FOR HOSPITALITY TRAINING PROGRAM GRANT APPLICATIONS, incorporated herein by reference and effective 2007 October 4 1-18-98, shall be used by all reviewers to evaluate all other the grant applications submitted. Copies of this form may be obtained from the Hospitality Education Program at the address provided in paragraph 61C-8.004(1)(a), F.A.C.~~

(3) Program Review and Disbursement of Funds.

~~(g) Written status reports shall be submitted as indicated on in the grant application, narrative but not more less than 60 30 days following the end of each quarter, using DBPR Form HR 5025-202, QUARTERLY STATUS REPORT FORM FOR HOSPITALITY TRAINING PROGRAMS, incorporated herein by reference and effective 2007 October 4 1-18-98. Copies of this form may be obtained from the Hospitality Education Program at the address provided in paragraph 61C-8.004(1)(a), F.A.C. Quarterly requests for payment shall be submitted with the status reports. Such requests shall contain an invoice requesting payment and a detailed accounting of quarterly expenditures for the quarter. Payment requests for expenditures accrued during the first quarter of the grant period shall include only those expenditures accrued on or after July 1 or the date of grant contract execution, whichever is later. All other payment requests shall contain only those expenditures accrued during the previous quarter.~~

~~(4) Annual Program Reports. An annual report shall be submitted within 60 days following the end of each state fiscal year and the grant period using DBPR Form HR 5025-203, ANNUAL PROGRAM REPORT FORM FOR HOSPITALITY TRAINING PROGRAMS GRANTS, incorporated herein by reference and effective 2007 October 4 1-18-98, and which is available upon written request from the director of education shall be used to submit an annual report within 30 days following the end of the grant period. Copies of this form may be obtained from the Hospitality Education Program at the address provided in paragraph 61C-8.004(1)(a), F.A.C.~~

~~(5) Obtaining forms. All forms incorporated in this section are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at (850)487-1395; or upon written request to the Hospitality Education Program, Division of Hotels and~~

Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

## DEPARTMENT OF HEALTH

### Division of Medical Quality Assurance

RULE NO.: 64B-9.002  
 RULE TITLE: Physician Survey Procedures  
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 50, December 14, 2007 issue of the Florida Administrative Weekly.

The changes are in response to written comments received from the Joint Administrative Procedures Committee. The rule as amended to address the JAPC concerns shall read as follows:

(1) At time of licensure renewal, each medical doctor and osteopathic physician who renews his or her license on line at [www.FLHealthSource.com](http://www.FLHealthSource.com) must fully complete on line all applicable portions of the physician workforce survey, form DH-MQA 1119, entitled Physician Workforce Survey, effective 02/08, which is incorporated herein by reference and also may be viewed at <http://www.doh.state.fl.us/mqa/medical/index.html> or at <http://www.doh.state.fl.us/mqa/osteopath/index.html>. The address where physicians who do not renew online are required to obtain, complete and submit a paper copy of the survey with their renewal is 4052 Bald Cypress Way, Bin # C10, Tallahassee, FL 32399.

(2) The nondisciplinary citation issued to a licensee for failing to complete the survey shall be sent by regular U.S. mail to the licensee's last address of record. The license renewal notice warning of the prohibition against renewal without first completing the survey shall be sent by regular U.S. mail to the licensee's last address of record, and the license shall not be renewed until the survey has been completed.

Specific Authority 458.3191(4), 459.0081(4) FS. Law Implemented 381.4018, 458.3191, 459.0081 FS. History—New \_\_\_\_\_.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lola Pouncey, Bureau Chief, Bureau of Operations, Department of Health, 4052 Bald Cypress Way, Bin C-10, Tallahassee, Florida 32399-3250

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NOS.:	RULE TITLES:
64B7-25.001	Examination Requirements
64B7-25.004	Endorsements

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 7, February 15, 2008 issue of the Florida Administrative Weekly.

The correction will revise the first paragraph, second line of the Notice of Correction to read as "Notice of RuleMaking" in place of "Notice of Change".

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

**DEPARTMENT OF HEALTH**

**Board of Massage**

RULE NO.:	RULE TITLE:
64B7-26.002	Licensure of Massage Establishments

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 9, February 29, 2008 issue of the Florida Administrative Weekly.

The correction will revise the first paragraph, second line to read as "Notice of RuleMaking in place of "Notice of Change".

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NOS.:	RULE TITLES:
65C-13.022	Background Screening Requirements
65C-13.023	Pre-Service Training
65C-13.024	Initial Licensing Procedures
65C-13.025	In-Service Training
65C-13.026	Changes During the Licensed Year
65C-13.027	Re-Licensing
65C-13.028	Licensed Out-of-Home Caregiver's Role as a Team Member
65C-13.029	Standards for Licensed Out-of-Home Caregivers
65C-13.030	Terms of a License
65C-13.031	Capacity, Placement and Waivers
65C-13.032	Babysitting, Respite and Other Supervision
65C-13.033	Complaint Investigations

65C-13.034 Administrative Actions, Appeals and Closures

65C-13.035 Administrative Actions, Appeals and Closures

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 6, February 8, 2008 issue of the Florida Administrative Weekly.

The correction has been made to the Notice of Change published in the February 8, 2008 issue of the Florida Administrative Weekly in Vol. 34, No. 6 whereas "Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 48, December 1, 2006 issue of the Florida Administrative Weekly." should have read the following: "Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1, F.S., published in Vol. 33, No. 47, November 21, 2007 issue of the Florida Administrative Weekly."

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.:	RULE TITLE:
65C-20.008	Application

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-20.008 Application.

(1) through (3) No change.

(a) An employment history check is required as part of background screening, must include the previous two (2) years and must be maintained in the department's licensing file. ~~1. An employment history check conducted under this rule, which shall include the applicant's position description, confirmation of employment dates from previous job(s), and level of job performance.~~

~~(b)2-~~ CF Form 1649A, January 2007, an Attestation of Good Moral Character, which is incorporated by reference, must be completed for all operators/applicants and all adult household members annually or in accordance with local licensing agency compliance and must be maintained in the department's licensing file. CF-FSP 1649 may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare) by clicking on the forms link.

~~(c)3.~~ For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.

~~(4)a.~~ A screening conducted under this rule is valid for five (5) years, at which time a five (5) year re-screen must be conducted.

~~(a)1.~~ The five (5) year re-screen is required for the operator/applicant and all other household members, including juveniles and substitutes, and must be maintained in the department's licensing file.

~~(b)1.~~ The five (5) year re-screen must include, at a minimum, statewide criminal records checks through the Florida Department of Law Enforcement and a local criminal records check.

~~(c)1.~~ An operator/applicant must be re-screened following a break in operation of the family day care home that exceeds 90 days. A person in this category must undergo the same level of screening that was required at the time of initial operation of the family day care home. If operator/applicant takes a leave of absence, such as maternity leave, extended sick leave, etc., re-screening is not required unless the five (5) year re-screen has come due during the leave of absence.

Specific Authority 402.313 FS. Law Implemented ~~402.302(13),~~ 402.313 FS. History—New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: RULE TITLE:  
65C-20.010 Health and Safety Related Requirements

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-20.010 Health and Safety Related Requirements.

(1) through (1)(a) No change.

(b) All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items as well as knives, sharp tools and other potentially dangerous hazards shall be stored separately and locked or inaccessible and out of a child's reach.

(c) through (e) No change.

(f) Family day care homes caring only for infants under 12 months of age, shall not be required to have an outdoor play area; however, infants in care shall be provided opportunities for outdoor time each day that weather permits. For all other

family day care homes, including those providing evening care, the outdoor play area space shall ~~be fenced~~ maintain safe and adequate fencing or walls, a minimum of four (4) feet in height if the family day care home property borders any of the following:

1. through 4. No change.

(g) No change.

~~(h) Outdoor Play Area and Outdoor Equipment. Space~~

1. All family day care homes' play activities shall be suitable to each child's age and development. shall provide outdoor play equipment and

2. through 5. No change.

(i) through (m) No change.

~~(n)4.~~ Children up to one (1) year of age must be in an individual crib, portacrib or playpen with sides. Crib sides must be raised and secured while an infant is in the crib and bar spacings may not exceed two and three-eighths inches. Cribs must meet the construction regulations as outlined in Title 16, Parts 1508.7 & 1509.8, Code of Federal Regulations, January 1, 2004. No double or multi-deck cribs, cots or beds may be used. When napping or sleeping, young infants that are not capable of rolling over on their own shall be positioned on their back and on a firm surface to reduce the risk of Sudden Infant Death Syndrome (SIDS), unless an alternative position is authorized in writing by a physician. The documentation shall be maintained in the child's record.

(o) through (t) No change.

(2) through (5)(f) No change.

(g) All medicine must have child resistant caps and shall be stored separately and locked or inaccessible and out of a child's reach.

(h) No change.

(6) Child Discipline.

(a) Family day care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S., including standards that prohibit children from being subjected to discipline which is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(b) All family day care home operators, including substitutes, must comply with the family day care home's written discipline policy.

(c) A copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.

(7) Child Abuse or Neglect.

(a) Acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Sections 402.301-.319, F.S. Pursuant to Section 402.301(1), F.S., a

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S., constitutes a violation of the standards in Sections 402.301-319, F.S.

(8) Transportation.

(a) When any vehicle is regularly used by a family day care home to provide transportation, the driver shall have a valid Florida driver's license in accordance with Section 322.03(1)-703, F.S.

(b) All family day care homes must maintain current insurance coverage on all vehicles used to transport children in care and documentation thereof.

(c) The maximum number of individuals transported in a vehicle shall not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(d) Each child, when transported, must be in an individual factory installed seat belt or federally approved, properly installed, child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.

(e) An adult must remain within sight and hearing of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.

(f) Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:

1. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of six months. The log shall include each child's name, date, time of departure and time of arrival, and signature of the driver to verify the fact that all children have left the vehicle.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the child departs the vehicle.

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and

c. Sign, date and record the driver's log immediately, verifying that all children were all accounted for and that the visual sweep was conducted.

(g) Smoking is prohibited in all vehicles while being used to transport children.

(h) Emergency medical forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children on all field trips.

Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 1-4-01, 7-13-03, 9-12-04, 4-12-07, \_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-20.011  
RULE TITLE: Health Records

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-20.011 Health Records.

(1) through (2) No change.

(a) The operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting the child into care. This information shall be documented on CF-FSP Form 5219, January 2008 ~~June 2005~~, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent that contains all the information required by the department's form. CF-FSP Form 5219 may be obtained from the ~~local~~ Department of Children and Family Services' website at www.myflorida.com/childcare ~~district service center~~ or from the local licensing agency.

(b) through (c) No change.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-20.012  
RULE TITLE: Enforcement

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-20.012 Enforcement.

~~(1) Pursuant to Section 402.313, F.S., family day care homes may be fined a maximum of \$100 per violation, per day for noncompliance with any of the applicable provisions of Sections 402.301-319, F.S.~~

~~(1) Definitions.~~

~~(a) "Day" means a weekday, excluding weekends and holidays calendar day.~~

~~(b) "Probation" is a licensing status wherein the department or local licensing agency issues a disciplinary action imposing a deadline for a facility to remedy a violation or violations, a deadline for a home to remedy a violation or violations which are within the control of the facility, to become compliant with licensing standards.~~

~~(e)~~ “Provisional” is a licensing status wherein the Department or local licensing agency allows a facility to operate for a designated period of time although one or more licensing standards, beyond the control of the operator, have not been met.

~~(c)(d)~~ “Standards” are requirements that must be met for licensure as a family day care home and a large family child care home that are identified on the CF-FSP Form 5318, October August 2007, Family Day Care Home Standards Classifications Summary, and CF-FSP Form 5317, October August 2007, Large Family Child Care Home Standards Classification Summary, which is incorporated by reference.

~~(d)(e)~~ “Violation” means a finding of noncompliance by the department or local licensing agency with a licensing standard.

1. “Class I Violation” is an incidence of noncompliance with a Class standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class I violations are the most serious in nature, pose an imminent threat to a child including ~~overt~~ abuse or ~~neglect~~ negligence and which could or does result in death or serious harm to the health, safety or ~~and~~ well-being of a child.

2. “Class II Violation” is the second or subsequent incidence of noncompliance with an individual Class II standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class II violations are less serious in nature than Class I violations and could be anticipated to pose a threat to the health, safety or ~~and~~ well-being of a child, although ~~but~~ the threat is not imminent.

3. through 4. No change.

(2) No change.

(3) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The department ~~shall~~ may take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

~~(b) Some violations may have disciplinary sanctions levied for each child or employee record or action found in noncompliance within a standard on any one inspection.~~

~~(b)(e)~~ Each standard violation has an assigned classification. ~~Some based on the nature or severity of the violation(s) as identified within CF-FSP Form 5318, October August 2007, Family Day Care Home Standards Classifications Summary, and CF-FSP Form 5317, October August 2007, Large Family Child Care Home Standards Classification Summary, may escalate from one class to another based on the nature, severity, and/or repetition of the violation within a two (2) year period.~~

~~(c)(d)~~ A violation of a Class II standard ~~any standard(s)~~ that results in death or serious harm to a child ~~shall~~ may escalate to a Class I violation.

~~(d)(e)~~ Disciplinary sanctions for licensing violations that occur within a (two) 2 year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second Class I violation, the department shall upon applying the factors in Section 402.310(1), F.S., at a minimum, issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation and ~~The department~~ may impose other disciplinary sanctions in addition to the fine.

~~b. For the second Class I violation, the Ddepartment shall at a minimum, issue an administrative complaint placing the provider’s license on probation status for a period not to exceed 6 (six) months. The Department may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.~~

~~b.e.~~ For the third and subsequent Class I violations, the department shall issue an administrative complaint to suspend, deny or revoke the license or registration. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. No change.

b. For the second Class II violation, the department shall issue an administrative complaint imposing a fine of \$50 ~~per day~~ for each violation. This violation, and subsequent violations, of the same standard within a two (2) year period will be classified as “Class II.”

c. For the third Class II violation of that standard, the department shall issue an administrative complaint imposing a fine ~~in the amount~~ of \$60 per day for each violation.

~~d. For the fourth Class II violation, the department shall, at a minimum,~~ issue an administrative complaint placing the provider’s license or registration on probation status for a period not to exceed six (6) months, and ~~t~~The department ~~shall~~ may also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent Class II violations, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and ~~t~~The department ~~shall~~ may also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. through b. No change

c. For the third Class III violation, the department shall issue an administrative complaint imposing a fine of \$25 per day for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two-year period will be classified as "Class III."

d. No change.

e. For the fifth Class III violation, the department shall, at a minimum, issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months, and the department shall may also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent Class III violations, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall may also issue an administrative complaint imposing an additional fine not to exceed of \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first Class III Children's Health and or Immunization violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second Class III Children's Health and or Immunization violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third Class III Children's Health and or Immunization violation, the department shall issue an administrative complaint imposing a fine in the amount of \$25 per day for each violation. This Class III violation, and subsequent Class III violations, of the same standard within a two-year period, will be classified as "Class III."

d. For the fourth Class III violation, the department shall issue an administrative complaint imposing a fine in the amount of \$30 per day for each violation.

e. For the fifth Class III Children's Health and or Immunization violation, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent Class III Children's Health and or Immunization violations, the department shall issue an administrative complaint placing the provider's license or registration on probation status for a period not to exceed six (6) months, and the department may shall also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.

~~(3)~~(4) No change.

(5) Child Discipline.

(a) Family day care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S., including standards that prohibit children from being subjected to discipline which

is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(b) All family day care home operators, including substitutes, must comply with the family day care home's written discipline policy.

(c) A copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.

~~(6) Child Abuse or Neglect.~~

(a) Pursuant to Section 402.301(1), F.S., acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Sections 402.301-319, F.S.

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S. constitutes a violation of the standards in Sections 402.301-319, F.S.

~~(7) Transportation.~~

(a) When any vehicle is regularly used by a family day care home to provide transportation, the driver shall have a valid Florida driver's license in accordance with Section 322.01-703(1), F.S.

(b) All family day care homes must maintain current insurance coverage on all vehicles used to transport children in care and documentation thereof.

(c) The maximum number of individuals transported in a vehicle shall not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(d) Each child, when transported, must be in an individual factory installed seat belt or federally approved, properly installed, child safety restraint, unless the vehicle is excluded from this requirement by Florida Statutes.

(e) An adult must remain within sight and hearing of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.

(f) Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:

1. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of six months. The log shall include each child's name, date, time of departure and time of arrival, and signature of the driver to verify the fact that all children have left the vehicle.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the child departs the vehicle,

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and

~~e. Sign, date and record the driver's log immediately, verifying that all children were all accounted for and that the visual sweep was conducted.~~

~~(g) Smoking is prohibited in all vehicles while being used to transport children.~~

~~(h) A permission and transportation release form signed by the custodial parent or legal guardian of the children in care must be on file for planned and unplanned activities.~~

~~(i) A telephone or other means of instant communication shall be available to the operator, employee or other adult responsible for children during all field trips. Cellular phones, two-way radio devices, citizen band radios, and other means of instant communication are acceptable.~~

~~(j) Emergency medical forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children on all field trips.~~

Specific Authority 402.313 FS. Law Implemented 402.310, 402.319(5) FS. History--New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: RULE TITLE:  
65C-20.013 Large Family Child Care Homes (LFCCH)

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-20.013 Large Family Child Care Homes (LFCCH).

(1) through (5)(b) No change.

1. Possess a CF-FSP Form 5206, April 2005, Staff Credential Verification Confirmation or one (1) of the following credentials for a minimum of one (1) year: prior to Large Family Child Care Home Licensure:

~~a.~~ An active National Early Childhood Credential (NECC); an active Birth Through Five or School-Age Florida Child Care Professional Credential (FCCPC) (formerly known as the Child Development Associate Equivalency); an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), Early Childhood Professional Certificate (ECPC) or School-Age Professional Certificate (SAPC); or meet the formal educational qualification requirement outlined on CF-FSP Form 5211, January 2008 April, Staff Credential Application, which is incorporated by reference. An Employment History Recognition Exemption will not be accepted to meet the minimum staff credential requirements for Large Family Child Care Homes.

a. A candidate must complete CF-FSP Form 5211, January 2008, Staff Credential Application.

b. through (f) No change.

(6) through (7) No change.

(8) Transportation

(a) When any vehicle is regularly used by a large family child care home to provide transportation, the driver shall have a valid current Florida driver's license in accordance with Section 322.01-703(1), F.S.

(b) through (h) No change.

(9) through (11)(b) No change.

(c) Outdoor Play Area Space and Outdoor Equipment.

1. At all large family child care homes the outdoor play area space shall maintain safe and adequate fencing, or walls, a minimum of four (4) feet in height. Fencing, including gates, must be continuous and shall not have gaps that would allow children to exit the outdoor play area. The base of the fence must remain at ground level, free from erosion or buildup, to prevent inside or outside access by children or animals.

2. All large family child care homes must have a minimum of 270 square feet of usable outdoor play area space located on their property and which is exclusively used for the children attending or residing at the large family child care home. Large family child care homes caring only for infants under 12 months of age, shall not be required to have an outdoor play area space; however, infants in care shall be provided opportunities for outdoor time each day that weather permits.

3. through 7. No change.

(d) No change.

Specific Authority 402.3131 FS. Law Implemented 402.302(13), 402.305, 402.3131 FS. History--New 5-21-00, Amended 1-4-01, 7-13-03, 9-12-04, 4-12-07.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: RULE TITLE:  
65C-22.001 General Information

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-22.001 General Information.

(1) through (2)(b) No change

(c) ~~The licensed capacity, as reflected on the annual license, may never exceed the total number of children in care on site and while on field trips may never exceed the licensed capacity as reflected on the annual license.~~

(3) through (9) No change.

(10) Attendance. Daily attendance of children shall be taken and recorded by the child care facility personnel, documenting the time when each child enters and departs a child care facility or program. The custodial parent or guardian



may document the time when their child(ren) enter and depart the child care facility or program. However, child care facility personnel are responsible for ensuring that attendance records are complete and accurate. Such records shall be maintained for a minimum of four (4) months. Attendance forms used for Voluntary PreKindergarten or School Readiness may be used if applicable.

~~(11) Child Safety. Pursuant to Section 402.301, F.S., acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Section 402.301-319, F.S.~~

(11) Child Safety.

a. Acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitutes a violation of the standards in Sections 402.301-319, F.S. ~~Pursuant to Section 402.301, F.S., a~~

b. Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S., constitutes a violation of the standards in Sections 402.301-319, F.S.

Specific Authority ~~402.284,~~ 402.305 FS. Law Implemented ~~402.284,~~ 402.305, 402.3055, 402.308, 402.310, ~~402.315~~ FS. History–New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-22.003  
 RULE TITLE: Training

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

- 65C-22.003 Training.
- (1) through (6) No change.
- (7) Staff Credentials.

(a) Staff Credential Requirement. Pursuant to s. 402.305(3), F.S., a licensed child care facility must have one (1) credentialed staff member ~~of~~ for every 20 children.

1. A credentialed staff member is defined as a child care professional who has been issued a CF-FSP Form 5206, January 2008 April, Staff Credential Verification, which is incorporated by reference, by the department.

2. To apply for a CF-FSP Form 5206, a candidate must complete CF-FSP Form 5211, January 2008 April, Staff Credential Application, which is incorporated by reference, copies of which may be obtained on the Department of Children and Family Services’ website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare), and meet one (1) of the following six (6) qualifications as cited on CF-FSP Form 5211:

- a. through f. No change.

- (b) through (e) No change.
- (8) No change.

Specific Authority 402.305 FS. Law Implemented 402.305, 402.309 FS. History–New 6-1-97, Amended 3-17-99, 7-26-00, 4-2-02, 7-13-03, 9-12-04, 4-12-07.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-22.004  
 RULE TITLE: Health Related Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

- 65C-22.004 Health Related Requirements.
- (1) through (3) No change.

Specific Authority 402.302, 402.305 FS. Law Implemented 402.302, 402.305 FS. History–New 6-1-97, Amended 3-17-99, 7-26-00, 4-2-02, 7-13-03, 9-12-04, 4-12-07.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-22.006  
 RULE TITLE: Record Keeping

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

- 65C-22.006 Record Keeping.
- (1) through (2) No change.
- (3) The facility operator shall obtain enrollment information from the child’s custodial parent or legal guardian, prior to accepting a child in care. This information shall be documented on CF-FSP 5219, January 2008 June, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent form that contains all information required by the Department of Children and Family Services on CF-FSP 5219. CF-FSP 5219 may be obtained from the licensing authority or on the Department of Children and Family Services’ website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

(a) through (c) No change.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-22.008  
 RULE TITLE: School Age Requirements

## NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-22.008 School Age Requirements.

(1) through (3)(e)2. No change.

3. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items, as well as knives and sharp tools and other potentially dangerous hazards, shall be stored separately and locked or inaccessible and out of a child's reach.

4. through 8. No change.

(f) through (m)4.f. No change.

g. All medication must have child resistant caps and shall be stored separately and locked or inaccessible and out of a child's reach.

h. No change.

(n) No change.

(o) Nutrition.

1. If a school-age child care program chooses to supply food, it shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA My Pyramid, April 2005 shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods for children ages two (2) and older. Using the USDA My Pyramid, breakfast shall consist of at least three (3) different food groups, lunch and dinner shall consist of at least four (4) different food groups, and snacks shall consist of at least two (2) different food groups. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA My Pyramid, may be obtained from the licensing authority, the local county health department or from the USDA website at [www.mypyramid.gov](http://www.mypyramid.gov).

2. through 4. No change.

(p) through (t)5.c. No change.

d. Documentation of staff members that have met the first aid and ~~infant and~~ child cardiopulmonary resuscitation (CPR) training requirement as referenced in sub-subparagraph 65C-22.008(3)(m)2.b., F.A.C.

e. through j. No change.

k. Daily meal and snack menus, including meal substitutions. Must be maintained for one (1) month year as referenced in subparagraph 65C-22.008(3)(o)4., F.A.C.

(4) No change.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## Family Safety and Preservation Program

RULE NO.:

RULE TITLE:

65C-22.009

Gold Seal Quality Care Program

## NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-22.009 Gold Seal Quality Care Program.

(1) No change.

(2) Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate.

Pursuant to Section 402.281(1), F.S., a child care facility ~~family day care homes and large family child care homes~~ seeking to obtain a designation as a Gold Seal Quality Care provider shall provide the department with documentation of accreditation by an accrediting association that has been approved by the department. A list of approved accrediting associations may be obtained from the licensing authority or on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

(b) Gold Seal Quality Care Enforcement

1. Gold Seal Quality Care providers must maintain national accreditation in order to retain their designation. A child care facility's ~~family day care home's~~ Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a child care facility ~~family day care home~~ must meet the additional criteria outlined in Section 402.281(3), F.S.

2. If Gold Seal Quality Care designation is revoked by the department, termination of the designation will be effective on the last day of the current period of licensure.

3. If the child care facility's ~~family day care home's~~ accreditation is revoked by the accrediting agency, the child care facility's ~~family day care home's~~ Gold Seal Quality Care designation will be terminated effective the date of revocation.

(3) Accrediting Association Requirements.

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315, August 2007, Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained on the Department of Children and Family Services' website at [www.myflorida.com/childcare](http://www.myflorida.com/childcare).

Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six (6) month waiting period from the date of denial before re-submission during the next scheduled acceptance month.

(b) through (c) No change.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-22.010  
 RULE TITLE: Enforcement

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 33, August 17, 2007 issue of the Florida Administrative Weekly.

65C-22.010 Enforcement.

(1) Definitions.

(a) “Day” means a weekday, excluding weekends and holidays calendar day.

(b) No change.

~~(c) “Provisional” is a licensing status wherein the Department or local licensing agency allows a facility to operate for a designated period of time although one or more licensing standards, beyond the control of the operator, have not been met.~~

(c)(d) “Standards” are requirements that must be met for licensure as a child care facility and that are identified on the CF-FSP Form 5316, October August 2007, Child Care Facility Standards Classification Summary, which is incorporated in this rule by reference.

(d)(e) “Violation” means a finding of noncompliance by the department or local licensing agency with a licensing standard.

1. “Class I Violation” is an incidence of noncompliance with a Class I standard as described on CF-FSP Form 5316, October August 2007. Class I violations are the most serious in nature, pose an imminent threat to a child including ~~overt~~ abuse or ~~neglect negligence~~ and which could or does result in death or serious harm to the health, safety or ~~and~~ well-being of a child.

2. “Class II Violation” is the second or subsequent incidence of noncompliance with an individual Class II standard as described on CF-FSP Form 5316. Class II violations are less serious in nature than Class I violations and could be anticipated to pose a threat to the health, safety or ~~and~~ well-being of a child, although the threat is not imminent.

3. through 4. No change.

(2) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction

with any disciplinary sanction. The department ~~shall~~ may take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

~~(b) Some violations may have disciplinary sanctions levied for each child or employee record or action found in noncompliance within a standard on any one inspection.~~

(b)(e) Each standard violation has an assigned classification. Some based on the nature or severity of the violation(s) as identified within the Child Care Facility Standards Classification Summary CF-FSP Form 5316., may escalate from one class to another based on the nature, severity, and/or repetition of the violation within a two (2) year period.

(c)(d) A violation of a Class II standard any standard(s) that results in death or serious harm to a child shall may escalate to a Class I violation.

(d)(e) Disciplinary sanctions for licensing violations that occur within a two (2) year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second Class I violation, the department shall, upon applying the factors in Section 402.310(1), F.S., at a minimum, issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation; and ~~The department~~ may impose other disciplinary sanctions in addition to the fine.

~~b. For the second Class I violation, the department shall at a minimum, issue an administrative complaint placing the provider’s license on probation status for a period not to exceed 6 (six) months. The department may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.~~

b.e. For the third and subsequent Class I violation, the department shall issue an administrative complaint to suspend, deny or revoke the license. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. No change.

b. For the second Class II violation, the department shall issue an administrative complaint imposing a fine of \$50 ~~per~~ day for each violation. This violation, and subsequent violations of the same standard within a two (2) year period will be classified as “Class II.”

c. For the third Class II violation ~~of the standard,~~ the department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth Class II violation, the department shall, ~~at a minimum,~~ issue an administrative complaint placing the provider’s license on probation status for a period not to

exceed six (6) months, ~~and t~~The department shall ~~may~~ also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent Class II violations, the department shall issue an administrative complaint to suspend, deny, or revoke the license, ~~and t~~The department shall ~~may~~ also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. through b. No change.

c. For the third Class III violation, the department shall issue an administrative complaint imposing a fine of \$25 ~~per day~~ for each violation. This violation, and subsequent violations of the same standard within a two (2) year period will be classified as "Class III."

d. No change.

e. For the fifth Class III violation, the department shall, ~~at a minimum,~~ issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months, ~~and t~~The department shall ~~may~~ also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent Class III violation, the department shall issue an administrative complaint to suspend, deny, or revoke the license, ~~and t~~The department shall ~~may~~ also issue an administrative complaint imposing a fine of ~~not to exceed~~ \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first Class III Children's Health and or Immunization violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second Class III Children's Health and or Immunization violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third Class III Children's Health and or Immunization violation, the department shall issue an administrative complaint imposing a fine in the amount of \$25 for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two (2) year period will be classified as "Class III."

d. For the fourth Class III violation, the department shall issue an administrative complaint imposing a fine in the amount of \$30 for each violation.

e. For the fifth Class III Children's Health and or Immunization violation, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent Class III Children's Health and or Immunization violations, the department shall issue an administrative complaint placing the provider's license or

registration on probation status for a period not to exceed six (6) months, and the department shall also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.

~~(3) Child Abuse or Neglect Sanctions.~~

a. ~~Pursuant to Section 402.301, F.S., Acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitutes a violation of the standards in Sections 402.301-319, F.S.~~

b. ~~Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S. constitutes a violation of the standards in Sections 402.301-319, F.S.~~

Specific Authority 402.305, 402.310, ~~39.201~~ FS. Law Implemented 402.305, 402.310 FS. History--New \_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NOS.:	RULE TITLES:
69O-204.010	Purpose and Scope
69O-204.020	Definitions
69O-204.030	Forms Incorporated by Reference
69O-204.040	Prohibited Practices
69O-204.070	Anti-Fraud

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 50, December 14, 2007 issue of the Florida Administrative Weekly.

The rule will read as follows:

69O-204.010 Purpose and Scope.

The purpose of this Rule Chapter is to implement the provisions of Chapter 626, Part X, Florida Statutes.

Specific Authority 626.9925 FS. Law Implemented 626.991 FS. History--New \_\_\_\_\_.

69O-204.020 Definitions.

In addition to the definitions in Section 626.9911, F.S., the following definitions apply to this regulation:

(1) "Control" or "effective control" as used in the Viatical Settlement Act and this rule chapter means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person.

(2) "Secondary market" means the assignment, transfer, sale, devise, or bequest of the death benefit or ownership of all or a portion of a viaticated life insurance policy or viaticated certificate of insurance.

Specific Authority 626.9925 FS. Law Implemented 626.9911(2), 626.9912(4), 626.9913(2), 626.9922(2), 626.9924, 626.9913(2) FS. History--New \_\_\_\_\_.

69O-204.030 Forms Incorporated by Reference.

(1) The following forms are incorporated by reference to implement the provisions of Chapter 626, Part X, Florida Statutes.

(a) Form OIR-A3-1288, Viatical Settlement Provider Annual Report (REV 2/08).

(b) Form OIR-C1-1294, Notice of Intent to Use a Related Provider Trust (REV 10/05).

(2) All of the above referenced forms are available from the Office's website: <http://www.floir.com>.

(3) All applications, annual report filings, forms submitted by licensees for approval and associated documentation shall be submitted electronically to <http://iportal.fldfs.com>.

Specific Authority 626.9925 FS. Law Implemented 626.9912(2), 626.9912(3), 626.9913(2), 626.9921(3), 626.9921(4), 626.9928 FS. History--New \_\_\_\_\_.

69O-204.040 Prohibited Practices.

A viatical settlement provider shall not act also as a viatical settlement broker, whether entitled to collect a fee directly or indirectly, in the same viatical settlement.

Specific Authority 626.9925 FS. Law Implemented 626.9911(9), 626.9916(1), 626.9916(5) FS. History--New \_\_\_\_\_.

69O-204.070 Anti-Fraud.

Every licensed viatical settlement provider shall establish and maintain in accordance with the provisions of Section 626.9922, F.S.:

(1) Documentation of compliance with its anti-fraud plan and procedures filed in accordance with Section 626.99278, F.S.

(2) All documentation pertaining to resolved and unresolved material inconsistencies between medical records and insurance applications.

(3) Documentation pertaining to the mandatory reporting of possible fraudulent acts and prohibited practices set forth in Section 626.99275, F.S., to the Division of Insurance Fraud of the department.

Specific Authority 626.9925 FS. Law Implemented 626.99278, 626.9922, 626.99275 FS. History--New \_\_\_\_\_.

The remainder of the rules read as previously published.

## Section IV Emergency Rules

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### DEPARTMENT OF TRANSPORTATION

NOTICE IS HEREBY GIVEN THAT on February 25, 2008, the Florida Department of Transportation has issued an order denying the petition of Lamar Outdoor Advertising – Lakeland, seeking a variance from the provisions of paragraph 14-10.007(2)(b), F.A.C. The Petition was received by the Department on November 28, 2007. The Department published its notice of receipt of the petition in the December 14, 2007, edition of the F.A.W. Paragraph 14-10.007(2)(b), F.A.C., prohibits modifications to the height above ground level for nonconforming billboards. The Department's order, issued in DOT Case No. 07-114, denied the petition because Lamar Outdoor Advertising – Lakeland failed to demonstrate that the purpose of the underlying statute would be met or that strict application of the rule would create a substantial hardship or violate principles of fairness.

A copy of the Order may be obtained by contacting: Clerk of Agency Proceedings, Department of Transportation, 605 Suwannee Street, M.S. 58, Tallahassee, Florida 32399-0458.

For additional information, contact James C. Myers at (850)414-5393.

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

### WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on February 12, 2008, the South Florida Water Management District (District), received a petition for waiver from Okeechobee Utility Authority, Application No. 08-0129-1, for utilization of Works or Lands of the District known as the L-63N Canal, Okeechobee County, for a proposed parallel run of a 4" force main transmission line within the east right of way of L-63N, Section 35, Township 36 East, Range 35 West, Sections 2, 11, 13, 24, 25 Township 37 South, Range 35 East and Sections 30, 31, 32, Township 37 South, Range 36 East. The petition seeks